

Minor Variance Report

Application No.: A-04-24
Applicant: Scott and Shaylene Pind and Gavin and Elise Black
Property Description: Part Lot 19, Con. 2 (Dummer)
1452 Third Line Road-N-Dummer
1522-020-003-30900

Purpose of Application:

The Owners desire to construct a single-storey detached second dwelling unit with a ground floor area of 167.2 m² (1800 ft²) and a 55.7 m² (599.55 ft²) covered porch on the subject property. The existing two-storey primary dwelling on the property has a ground floor area of approximately 109.7 m² (1180.8 ft²) with an approximately 48.8 m² (525.28 ft²) covered porch. The existing and proposed structures are shown on the Site Plan prepared by Molly Conlin, dated November 2024 and attached to this Report.

The By-law requires that the maximum ground floor area of a detached second dwelling unit must not exceed 70% of the ground floor area of the primary dwelling unit (i.e. the second dwelling must not be greater than 76.79 m²) (S. 3.39.4 (iv)). The purpose of the minor variance is to permit an increase in the ground floor area of the second dwelling unit from 76.79 m² to 167.2 m².

The dwelling has been ordered and is shipping from the States. The dwelling elevations prepared by Barndo and Co., dated August 2024 are attached to this Report. The area for the proposed structure has already been stripped of topsoil. The Owner began the permitting process and submitted building permit number DD-2024-0144 when it was discovered that the ground floor area of the second dwelling is larger than that of the primary dwelling.

A new well and septic system are proposed to accommodate the second dwelling and a septic permit (DD-2024-0133) has been obtained.

Notice of the public meeting was provided on November 26, 2024, by e-mail to all prescribed persons and public bodies and to every person and public body that has provided a written request for Notice.

Due to the Canada Post Strike, Notice of the public meeting was provided by personal service to every owner of land within 60 metres of the subject property on November 27, 2024. A sign was posted on the frontage of the subject property and the Notice was posted on the Township Website.

The giving of Notice complies with the applicable Regulations of the Planning Act.

Agency Comments:

The Otonabee Region Conservation Authority (ORCA) indicated that the application is consistent with Chapter 5 of the Provincial Planning Statement (PPS), referencing Natural Hazards.

The development will not create new or is proposing to aggravate existing hazards and the subject property is not located within an area that is subject to the policies contained in the Trent Source Protection Plan.

ORCA noted that the second dwelling unit is beyond the regulatory jurisdiction on the property and permits from Otonabee Conservation are not required.

A copy the agency comments are attached to this Report.

As of the writing of this Report, there have been no other written or verbal comments received from the prescribed persons or public bodies.

Public Comments:

As of the writing of this Report, there have been no written or verbal comments received from members of the public.

Staff Comments:

The application was circulated to Senior Staff on November 26, 2024. There were no concerns identified by Senior Staff.

Pre-Consultation:

A pre-consultation meeting was held on October 24, 2024. The meeting included Township Staff; Marnie Guindon, Otonabee Region Conservation Authority (ORCA); Planning Staff from the County of Peterborough, Scott Pind, Owner and Brent Brown, Contractor.

The pre-consultation outlined the requirements of the Official Plan and Zoning By-law with respect to second dwellings and identified additional information to be provided regarding the final proposal. There were no supporting studies identified. The location of the proposed second dwelling was adjusted to ensure it is located no further than 30 metres from the primary dwelling (S. 3.39.4 (v)).

Planning Review:

Section 45 of the Planning Act provides the tests that must be satisfied to support a minor variance application. The tests are as follows:

1. Does the minor variance maintain the general intent and purpose of the Official Plan?

The subject property is designated Rural as illustrated on Schedule A4-2 to the Official Plan (Official Plan). Low density residential development is permitted within the Rural designation (S. 6.2.2.2).

A maximum of one single-detached dwelling is permitted per lot within the Rural designation (S. 6.2.2.3 (b)). One second unit is permitted per single detached dwelling (S. 7.34). A second unit is defined as a dwelling unit which is ancillary and subordinate to the primary dwelling unit and may be contained within the main building on a lot or in a building accessory thereto, but not in both (S. 7.34 (b)).

The proposed one-storey second dwelling will have a ground floor area that is larger than that of the primary dwelling. However, the existing dwelling is a two-storey dwelling, and therefore will have a larger gross floor area than that of the second dwelling. The location of the proposed second dwelling as illustrated on the site plan and the design of the second dwelling as illustrated on the elevation drawings demonstrate that visually and functionally, the proposed dwelling will appear ancillary and subordinate to the existing farmhouse.

Section 7.34(l) of the OP states that a "severance to subdivide a second unit from its primary residential dwelling will not be permitted." Therefore, in order to ensure that the second dwelling will not be severed in the future, Staff recommend that the permit issued for the second dwelling unit clearly identifies the structure as an "additional dwelling unit" as opposed to a "dwelling unit".

Based on the design and location, and with the proper notation on Building Permit No. DD-2024-0144, the proposal will meet the intent of the Official Plan.

2. Does the minor variance maintain the general intent and purpose of the Zoning By-law?

The subject property is zoned Rural (RU) as illustrated on Schedule A2 to By-law No. 10-1996, as amended.

A single detached dwelling and a second dwelling unit are permitted uses within the (RU) Zone (Ss. 9.1.5 and 9.1.6). These uses must comply with Sections 9.2.4 and 3.39 of the By-law.

Section 3.39 of the By-law outlines the requirements for second dwelling units. Section 3.39.1 (c) requires that the second dwelling unit must be clearly subordinate to the primary dwelling unit and shall not be greater in area than the primary dwelling unit. Specifically, the maximum ground floor area of a detached second dwelling unit must not exceed 70% of the ground floor area of the primary dwelling unit (S. 3.39.4 (iv)).

Ground floor area is defined as "the floor area of the first storey of a dwelling, but excluding any portion of such first storey which is not a habitable room and which has no habitable room, or portion thereof, located thereover." (S. 22.81.3).

Habitable room is defined as "a room designed to provide living, dining, sleeping, or kitchen accommodation for persons. This definition may include a bathroom, den, library or enclosed sunroom but shall not include any private garage, carport, porch, veranda, unfinished attic, unfinished basement or unfinished cellar." (S. 22.98).

The existing primary dwelling is a two-storey farmhouse with a large, wrap around, covered porch. According to the definitions in the By-law, only the first storey of a dwelling is used to calculate ground floor area and porches and verandas are not included in this calculation. While the second dwelling unit will be greater than 70% of the ground floor area of the existing dwelling, it will visually appear smaller and subordinate due its single-storey, barndominium style design with only one window facing the road.

A second dwelling must be located no further than 30 metres from the primary dwelling (S. 3.39.4 (v)), must not exceed 4.5 metres in height and must not exceed the height of the existing primary dwelling (S. 3.39.4 (ii)). The site plan and elevation drawings have demonstrated that these regulations will be complied with.

A livestock facility exists at 1490 Third Line Road-N-Dummer. In accordance with Section 3.23 of the By-law, Minimum Distance Separation (MDS I) must be calculated and applied from this facility to ensure the second dwelling meets the required separation distance. Further comments are outlined below and MDS calculations are attached to this Report which demonstrate the proposed dwelling complies with the MDS requirements.

In all other respects, the proposal complies with the Zoning By-law and the application meets the general intent and purpose of the Zoning By-law.

3. Is the proposed use desirable for the appropriate development or use of the land?

The proposed use is desirable and appropriate to the development of the subject land.

A detached second dwelling is a permitted use subject to the applicable Official Plan policies and zoning regulations. While the second dwelling will have a ground floor area that is more than 70% of the ground floor area of the primary dwelling, the location and design of the second dwelling will be visually and functionally ancillary and subordinate to the primary dwelling.

The second dwelling will utilize the existing entrance to the property. Air photos of the subject property and Google Earth images of the existing entrance, dwelling and area of the proposed second dwelling are attached to this Report which demonstrate the location will not impact existing agricultural activities and ensure the second dwelling will be located within 30 metres of the existing dwelling and farm building cluster.

4. Is the variance minor?

The proposed variance is minor in nature.

The ground floor area of the second dwelling represents an approximately 52% increase over the ground floor area of the existing primary dwelling. However, this does not account for the fact that the existing dwelling is two-storey's in height which visually provides a larger mass and prominence on the property. The height of the

second dwelling will not exceed the maximum of 4.5 metres required by the By-law. The location of the second dwelling will not be more than 30 metres from the existing dwelling and will utilize the existing entrance to access the property. In all other respects the second dwelling will comply with the Official Plan and Zoning By-law.

Conformity to PPS, 2024:

Effective October 20, 2024, the Growth Plan and the Provincial Policy Statement were consolidated into one document called the Provincial Planning Statement (PPS, 2024).

The PPS, 2024 is considered a policy statement for the purpose of Section 3 of the Planning Act. All municipal decisions, as well as comments, submissions or advice affecting planning matters, are required to be consistent with the PPS, 2024 pursuant to subsections 3(5) and 3(6) of the Planning Act.

As noted earlier in this Report, ORCA has stated the application is consistent with Chapter 5 of the Provincial Planning Statement (PPS), referencing Natural Hazards.

The subject property contains and/or is within 120 metres of a stratum 1 deer wintering area (significant wildlife habitat) per Policy 4.1.5 of the PPS, 2024. The subject property is also within 300 metres of a secondary aggregate sand and gravel resource per Policy 4.5.2.5 of the PPS, 2024.

During the pre-consultation, County Planning Staff advised that, based on their screening protocols (i.e. the small size of the deer wintering area and the number of existing sensitive uses in the area and proximity of the aggregate reserve to the Indian River) no further studies were required.

Policy 2.6.5 of the PPS, 2024 states "New land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae."

MDS Publication 853, Guideline #7 states "MDS I setbacks are not required for dwelling additions and renovations proposed on existing lots, even where an addition results in the existing dwelling being closer to a surrounding livestock facility or anaerobic digester. However, MDS I setbacks are required for all other building permit applications for dwellings on lots that existed prior to March 1, 2017, unless otherwise specified in a municipality's zoning by-law or where otherwise not required by this MDS Document.

As mentioned earlier in this Report, a review of the air photos identified a livestock facility located at 1490 Third Line Road-N-Dummer. MDS has been calculated for this facility based on assessment information only. The proposed second dwelling will be located outside of the MDS arc and appears to comply with Policy 2.6.5 of the PPS, 2024. A copy of the MDS calculations and map are attached to this Report.

The application appears to be consistent with the PPS.

Application of Four Tests:

The Committee should state in the decision how the application meets/or does not meet the four tests:

- 1) The application is (or is not) minor in nature.
- 2) The application is (or is not) desirable and appropriate to the development of this land.
- 3) The application meets (or does not meet) the general intent of the Official Plan.
- 4) The application meets (or does not meet) the general intent of the Zoning By-law.

Summary: The Committee will need to decide if the request is considered minor, that it is desirable and appropriate development of this parcel, and that the use intended meets the general intent of the Official Plan and Zoning by-law.

After hearing public comment and considering all written submissions, the Committee has the following options:

1. approve the minor variance with no conditions;
2. approve the minor variance with conditions;
3. defer the minor variance for further consideration at a later date; or
4. reject the minor variance.

Recommendation:

That the Committee review and consider all verbal and written comments received regarding Minor Variance Application File A-04-24;

That the Committee approve Minor Variance Application A-04-24 to permit an increase in the ground floor area of the second dwelling unit from 76.79 m² to 167.2 m², for the life of the structure, to facilitate the issuance of a building permit for the construction of a new, two-storey detached second dwelling as shown on the site plan prepared by Molly Conlin, dated November 2024 attached to the Decision as Schedule 'A' and to bring the proposed construction into compliance with the Zoning By-law.

This variance is deemed to be minor in nature and is appropriate for the development of this land. The application maintains the general intent and purpose of the Official Plan and Zoning By-law. Approval is conditional on the following:

- i. Obtaining any necessary permits from ORCA, Douro-Dummer Building Department and any other required ministry/agency;
- ii. That the issuance of Building Permit No. DD-2024-0144 for the proposed dwelling clearly identifies the structure as an "additional dwelling unit" to ensure compliance with the Official Plan and to prevent a future severance of the second dwelling unit.

- iii. That verification from an Ontario Land Surveyor be provided to the Township's Chief Building Official after the structures are framed to confirm that all applicable setback requirements have been met and to ensure compliance with any relief granted by this decision of the Committee;
- iv. That if any archaeological resources should be discovered during the course of development, all excavation must stop immediately, and an archaeologist must be contacted. Potential significance of the findings will be assessed and mitigative options will be identified. The recommendations of the archaeologist must be followed.

Report Approval Details

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| Document Title: | A-04-24 (Pind).docx |
| Attachments: | <ul style="list-style-type: none">- A-04-24 Application (Signed)_Redacted.pdf- A-04-24 Site Plan.pdf- A-04-24 - Meeting Notice.pdf- A-04-24 ORCA Comments PPLD-2338 (November 29, 2024).pdf- A-04-24 Air Photo.pdf- A-04-24 Elevations.pdf- A-04-24 Google Earth Images.pdf- A-04-24 MDS_Redacted.pdf |
| Final Approval Date: | Dec 4, 2024 |

This report and all of its attachments were approved and signed as outlined below:

Martina Chait-Hartwig

Todd Davis